

Exhibit 1

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE SOUTHERN DISTRICT OF TEXAS**
 HOUSTON DIVISION

3 DIAGEO NORTH AMERICA, INC.)
)
4)
5 VS.)
)
6 MEXCOR, INC., ET AL)
)

 No. 4-13-cv-00856
 Houston, Texas
 11:30 a.m.
 December 9, 2014

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9 **JURY TRIAL**

10 **BEFORE THE HONORABLE DAVID HITTNER**

11 **UNITED STATES DISTRICT JUDGE**

12 **VOLUME 5**

13
14 *****

15 APPEARANCES:

16 FOR THE PLAINTIFF:

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EDUARDO MORALES DIRECT BY LEAK

1 probably. I mean, I don't want to say for sure, but I'm
2 sure it is one of the best ones. And it's Texas-owned.
3 And then Texas Crown Club, and just to be displayed next
4 to them, this is how it looked, especially back in 2008,
05:11:56 5 2009, when there weren't other Texas whisky owned. So
6 this is our display piece.

7 MR. LEAK: And how about 7.41, the last
8 one, Brian.

9 BY MR. LEAK:

05:12:05 10 Q. And what do you see here?

11 A. This is -- these are -- this is an example of one of
12 our Mexcor trucks. This is our medium-sized tractor,
13 28-foot tractor-trailer.

14 And then you see the billboards. They're
05:12:19 15 all wrapped. So we have 20-something trucks that are
16 wrapped this way.

17 Q. Did you do any radio ads for Texas Crown Club?

18 A. Yes, we did, sir.

19 Q. Where have they played?

05:12:29 20 A. For the -- in the Texans' games, in the Cowboys'
21 games, and then on, like, 610 radio and different --
22 different events, different -- where sports people talk.
23 I can't remember all the names of them, but they would
24 have 10 seconds or 30-second commercials.

05:12:46 25 Q. Were any of your advertisements intended to link your

EDUARDO MORALES DIRECT BY LEAK

1 products to Crown Royal?

2 **A.** No, they were not.

3 **Q.** Since this lawsuit was filed, have you stopped
4 selling any state Crown Club products?

05:12:59

5 **A.** Yes, I have.

6 **Q.** Which ones?

7 **A.** I have stopped selling every single one except Texas
8 Crown Club.

9 **Q.** And why did you stop selling those products?

05:13:08

10 **A.** I had to make the business decision to temporarily
11 stop selling state Crown Clubs outside of Texas until this
12 trial would be held and a decision would be made.

13 **Q.** Do you intend to resume selling the other state Crown
14 Club products if the litigation is resolved in your favor?

05:13:31

15 **A.** I do.

16 **Q.** Why haven't you stopped selling Texas Crown Club?

17 **A.** Well, Texas Crown Club, it's been in the market now
18 for six years. We have tens of thousands of consumers.
19 We have 36,000 fans in our Facebook that truly love
05:13:48 20 drinking our product. And I don't think it's right for
21 those consumers to not be able to buy Texas Crown Club.

22 And on top of that, it is part of our --
23 of our bloodstream as a business. It would be extremely
24 hard to survive as a business without Texas Crown Club in
05:14:09 25 our financial side. I mean, it generates a great profit,

EDUARDO MORALES DIRECT BY LEAK

1 and it's a huge part of the overall piece, and I don't
2 think it's right to have to stop when we have built a
3 brand and --

05:14:33

4 **Q.** Will you be as effective selling your state Crown
5 Club whisky in competition with other whiskies if you
6 can't use your bags?

7 **A.** No, I would not be.

8 **Q.** What is the importance of the bags to your products?

05:14:44

9 **A.** Well, it's probably 50 percent of it. I mean, you --
10 you see their faces when people on the -- even on the
11 commer- -- in the -- I apologize, what it's called -- but
12 when you see their faces, they see our state-themed bag,
13 and it just -- it's like it is so cool, right?

05:15:00

14 So that gets that impulse. And once they
15 buy it, then, you know, it has to taste good to rebuy it;
16 but it's the huge piece. Without that, we're just another
17 product on the shelf.

05:15:18

18 It's a great gift. It's a great tool, you
19 know, as a gift, that you use it for anything. It's
20 just -- it's part of our identity. It just would not be
21 the same.

22 **Q.** On Friday, Mr. O'Rourke suggested that you could just
23 stop using the word "Crown" on your products.

24 Do you remember that?

05:15:28

25 **A.** Yes, he did.

EDUARDO MORALES REDIRECT BY LEAK

1 **A.** Of course, no.

2 **Q.** You pulled the ad; my client drop the case. Bygones,
3 right?

4 **A.** It did go away, yes, sir.

05:32:29 5 MR. O'ROURKE: I have nothing further, Your
6 Honor.

7 THE COURT: All right.

8 MR. LEAK: Very short redirect, Your Honor.

9 **REDIRECT EXAMINATION**

05:32:37 10 BY MR. LEAK:

11 **Q.** Mr. Morales, why did you get that award from the
12 TPSA?

13 **A.** Well, my understanding is that, usually, every year,
14 they give an award for, like, life accomplishment award.

05:32:52 15 But since I was 34 years old, at the time, they couldn't
16 give me a life accomplishment award. I've been the only
17 company really that -- in the last 15 years, let's say
18 there were 10 distributors. It went down to two, and we
19 were the little one that went from zero up to a good size
05:33:09 20 where we take care of all the package stores with
21 alternative brands. So we become a big part of the
22 industry to keep the liquor stores kind of in business
23 with alternative brands.

24 So rather than getting a life alternative
05:33:25 25 award -- or a life accomplishment award, they created the

EDUARDO MORALES RECROSS BY O'ROURKE

1 first ever Industry Ally Award, which honestly, it was
2 awesome.

3 Q. Were you proud to get that award?

4 A. I am still stunned by it. It is awesome.

05:33:41

5 Q. Does Pinkies do business with Diageo?

6 A. Yes, a lot of business.

7 Q. Diageo sells more than just Crown Royal, right?

8 A. Yes. A lot of big brands.

9 Q. Does Spec's do business with Diageo?

05:33:53

10 A. Yes, sir.

11 Q. Do you know of any reason why Spec's or Pinkies would
12 want to upset their business relationship with the biggest
13 liquor manufacturer in the world?

14 A. No, sir.

05:34:05

15 MR. LEAK: No further questions, Your Honor.

16 **RECROSS EXAMINATION**

17 BY MR. O'ROURKE:

18 Q. Mr. Morales, the states where you have changed the
19 name, what's the new name?

05:34:19

20 A. The new name is State Select Club.

21 Q. And do those products still come in bags?

22 A. Yes, sir.

23 Q. State theme bags?

24 A. Yes, sir.

05:34:33

25 Q. Has there been any litigation over that?

EDUARDO MORALES RECROSS BY O'ROURKE

1 **A.** No, sir.

2 MR. O'ROURKE: Nothing else, Your Honor.

3 MR. LEAK: No further questions, Your Honor.

4 THE COURT: Thank you, sir. You may step down.

05:34:56 5 Call your next witness.

6 Ladies and gentlemen, okay to go through

7 for about -- until about five after 6:00?

8 MR. FLECKMAN: Your Honor --

9 THE COURT: If not, you let me know.

05:35:05 10 MR. FLECKMAN: Your Honor, may I request a
11 five --

12 THE COURT: Absolutely.

13 MR. FLECKMAN: Thank you, Your Honor.

14 THE COURT: Absolutely.

05:35:10 15 It's now 5:35. We'll get back in, oh,
16 five -- what is it? -- 5:45, few minutes after -- we will
17 take about a five-minute break. Okay.

18 **(Recess taken from 5:35 until 5:44.)**

19 THE CLERK: All rise.

05:44:23 20 THE COURT: Be seated. Call your next witness.

21 **(Following had in the presence of the Jury.)**

22 MR. FLECKMAN: Thank you. We're going to call
23 Tom Jukam to the stand, Your Honor.

24 THE COURT: How do you spell his last name?

05:44:33 25 MR. FLECKMAN: J-U-K-A-M.